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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,245	09/12/2005	Keith Hart	SMB-PT158 (PC 03 560 B US	5997
3624 7590 08/30/2007 VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			EXAMINER KRISHNAMURTHY, RAMESH	
			ART UNIT 3753	PAPER NUMBER
			MAIL DATE 08/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/549,245

**Applicant(s)**

HART ET AL.

**Examiner**

/Ramesh Krishnamurthy/

**Art Unit**

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 - 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6, 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 1 - 5, 7 - 15 and 18 - 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

This office action is responsive to communications filed August 2, 2007.

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 2, 2007 has been entered.

**Claims 1 – 21 are pending.**

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5 and 7 – 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "at least one upstream control lip" in line 2 that appears to be a double inclusion of the control lip recited in claim 1.

Claim 7 recites the limitation "a regulating profiling is provided in the housing wall adjacent to the free lip end of the control lip (9), which comprises grooves or moldings (13) aligned in a flow direction (Pf1)" in lines 2 – 4 that appears to be a double inclusion of the same limitation recited in the parent claim 3.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 – 5, 7 – 15 and 18 – 21 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 11 54 982 B.

The document DE 11 54 982 discloses an insertion part (Figs. 1 – 10) that can be embodied as a flow regulator / backflow preventer, that can be used in a fluid line, the insertion part comprising a housing (7, 8), a displaceable sealing body arranged in the interior of the housing which can seal a flow opening (21) of a feeder channel in a closed position, the insertion part being provided with an annular lip shaped part (1) having an annular body (1') held inside the housing, and which in an area of the at least one flow opening has at least one control lip (part of (4) that is proximate the regulating profile (16)) and at least one sealing lip (5) as the sealing body that can be displaced by the fluid, with a free lip end region (inherent to (5)) that contact an opposing housing surface (14) in a sealing manner in the closed position. A housing core (13) is provided inside the housing. The sealing lip (5) is indeed downstream of the control lip (part of (4) as set forth above).

Regarding claim 3, it is noted that part (4) of the sealing body (1) is regarded as the control lip that serves as the throttle body or control body. Regarding claims 7 and 8, figure 5 discloses grooves or moldings that are provided on the housing wall adjacent the free lip ends (5) of the control lip (4) with the grooves or moldings embodied as flow channels open in direction of a circumference of the housing core (13). Figure 4 shows the grooves (18) to be even spaced and are configured in rounded shapes similar to that of ellipsoid or arc or polygon shaped grooves. The reaction pressure and reaction

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behavior of the sealing lip are indeed predetermined by the length, thickness and /or material characteristics of the lip shaped part (1). The housing is indeed comprised of two parts (7, 8). A radial connecting bar (12) is disclosed that connects the core (13) to the upstream part (8) of the housing.

6. Claims 6, 16 and 17 are allowed.

***Response to Arguments***

7. Applicant's arguments filed 08/02/2007 have been fully considered but they are not persuasive. Applicant's argument that in DE'982, the valve lip moves towards the housing (7) when in the open position and thus is incapable of adjusting the volume to a maximum value is unpersuasive. The extent of the movement of the valve lip is clearly governed by the flow and as such the valve does regulate the flow. In regard to the argument that the lip gap is narrowed under increasing pressure in the instant invention and not in the DE'892 reference, it is noted that such a limitation is not presently recited in the claims.

8. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (571) 272 – 4914. The examiner can normally be reached on Monday - Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson, can be reached on (571) 272 – 4887. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 – 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*/Ramesh Krishnamurthy/*  
Ramesh Krishnamurthy  
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